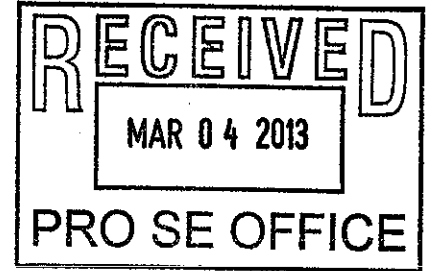


ORIGINAL

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK



-----X
OMEIL NOVADO MORGAN A.K.A. RAS NAGROM

COMPLAINT

**JURY TRIAL
DEMANDED**

Plaintiff,

- against -

THE CITY OF NEW YORK; RAYMOND W. KELLY,
COMMISSIONER OF THE CITY OF NEW YORK
DEPARTMENT OF POLICE;
OFFICER JOSEPH KAZLAS, shield no. 7769;
OFFICER CALEEF MCCLEAN, Tax no. 942157
OFFICER MATCHEL, shield no. 16928
OFFICER RAHMAN, shield no. 28165
SERGEANT WROBEY, NYPD 079th precinct
POLICE OFFICER ONE, NYPD 079TH precinct

Defendants.
-----X

CV 13 - 1215

KUNTZ, J.

PRELIMINARY STATEMENT

The Pro Se Plaintiff, OMEIL MORGAN, pursuant to provisions of 28 U.S.C. § 1654, Complaint against defendants' THE CITY OF NEW YORK; RAYMOND W. KELLY; OFFICER JOSEPH KAZLAS; OFFICER CALEEF MCCLEAN; OFFICER MATCHEL, shield no. 16928; SERGEANT WROBEY, NYPD 079th precinct; OFFICER RAHMAN, shield no. 28165; POLICE OFFICER ONE, NYPD 079TH precinct, respectfully set forth upon information known, and belief, allege that:

1. Plaintiff alleges, this is a civil rights action for equitable relief and money damages pursuant to 42 U.S.C. §§§§ 1983, 1981(a)(c), and 1988(a)(c), in order vindicate the rights of a law-abiding New York City resident to be free from unconstitutional and unlawful stop and frisk by members of the City of New York Police Department violating his rights to the United States Constitution.

2. The New York City Police Department's Stop, Question and Frisk program has grown over 700% over the past decade and has become one of the cornerstone policies of law enforcement in the city. The controversy of constitutionality surrounding this program has grown alongside it, with the legitimacy of the program questioned in a multitude of articles, reports, lawsuits. The data released to the City Council by the New York City Police Department (NYPD) summarizing stop-and-frisk statistics for 2011 shows highest yearly total stops to date – 684,330 – with no meaningful change in huge racial disparities. This total is 14 percent higher than the number of stops in 2010, and it represents a more than 600 percent increase since 2002, the year the NYPD began keeping stop-and-frisk figures. Eighty-seven percent of those stopped in 2011 were Black or Latino, and the abysmally low rates of correlation between stops and actual arrests persist: nine out of ten persons stopped were not arrested, nor did they receive summonses.

3. Of the nearly 2.5 million or roughly 500,000 per year people stop-and-frisks that NYPD conducted in 2005 to 2009, nearly 90% were engaged in entirely lawful activity, as they were neither arrested nor issued a summons. Members of the minority communities are bearing the brunt of these NYPD practices, with Blacks and Latinos being the target of nearly 90% of NYPD stops.

4. The NYPD is using its sweeping stop-and-frisk operation to build a massive database of law-abiding, Blacks and Latinos, New York City residents. After conducting stops and frisk, police officers complete forms that, among other things, include the name and address of the person stopped, and that information is then entered into a centralized NYPD database. As a result of this practice and the surge of stops and frisks over the last several years, the NYPD now has a database of hundreds of thousands if not more than millions of law-abiding New Yorkers, like

plaintiff who is now at risk of becoming the subject of criminal investigations by virtue of being in the database.

5. Plaintiff alleges, it is alleged that the individual police officers' violated, through their actions against plaintiff, his rights under the Fourth Amendments to the United States Constitution. It is further alleged that these violations and torts were committed as a result of policies and customs of the City of New York.

Parties

6. Plaintiff, Omeil Novado Morgan, is a 34-year-old Black man and a member of faith in HIS IMPERIAL MAJESTY EMPEROR HAILE SELASSIE I (RASTAFARIAN). Mr. Morgan wears a turban as a Priest in the ancient priesthood order of Melchisedec, in his way of living a spiritual life through our HOLY FATHER SUPREME. Mr. Morgan was born in Jamaica and is a naturalized Citizen of the United States of America. Mr. Morgan is an entrepreneur, a freelance photographer, and a seasonal mover.

7. Defendant THE CITY OF NEW YORK is a municipal corporation duly incorporated and existing pursuant to laws of the State of New York. The City of New York has established and maintains the New York City Police Department (NYPD) as a constituent department or agency.

8. Defendant RAYMOND W. KELLY, ("Commissioner Kelly") is chief executive officer of the police force; as such he shall be chargeable with and responsible for the execution of all laws and the rules and regulations of the department. Commissioner of the City of New York Police Department is empowered under Section 434 of the City Charter to regulate the City Police Department. He is being sued in his official capacity.

9. Defendant Police Officer JOSEPH KAZLAS, shield no. 7769, NYPD's 079th precinct, 263 Tompkins Avenue, Brooklyn, NY, 11221, is or was an employee of the NYPD at all relevant times. He is sued in his official and individual capacities.
10. Defendant Police Officer CALEEF MCCLEAN, Tax no. 942157, NYPD's 079th precinct, 263 Tompkins Avenue, Brooklyn, NY, 11221, is or was an employee of the NYPD at all relevant times. He is sued in his official and individual capacities.
11. Defendant Police Officer MATCHEL, shield no. 16928, NYPD's 079th precinct, 263 Tompkins Avenue, Brooklyn, NY, 11221, is or was an employee of the NYPD at all relevant times. He is sued in his official and individual capacities.
12. Defendant Police Officer RAHMAN, shield no. 28165, NYPD's 079th precinct, 263 Tompkins Avenue, Brooklyn, NY, 11221, is or was an employee of the NYPD at all relevant times. He is sued in his official and individual capacities.
13. Defendant Police Sergeant Worobey, NYPD's 079th precinct, 263 Tompkins Avenue, Brooklyn, NY, 11221, is or was an employee of the NYPD at all relevant times. He is sued in his official and individual capacities.
14. Defendant Police Officer ONE (Black male officer who request license from plaintiff) was on patrol with other defendants, NYPD's 079th precinct, 263 Tompkins Avenue, Brooklyn, NY, 11221, is or was an employee of the NYPD at all relevant times. He is sued in his official and individual capacities.

Facts

The Stop, Question, and Frisk Program

15. Police stops-and-frisks without reasonable suspicion violate the Fourth Amendment, and racial profiling is a violation of fundamental rights and protections of the Fourteenth Amendment and the Civil Rights Act of 1964. In recent years, the New York City Police Department's Stop, Question, and Frisk program has grown

into a controversial cornerstone of police activity in New York. In the last 10 years alone, the program has grown sevenfold, from 97,296 stops in 2002 to nearly 600,000 stops in 2011. The controversy surrounding this program has grown with it, with activists, news organizations, and others focusing substantial attention on the program and calling for reform on a variety of issues related to the program. Controversial aspects of the program include the alleged pervasive use of racial profiling and a widespread pattern of stops being made without adequate legal justification.

16. One of the most controversial aspects is the apparent racial bias in the targeting of both neighborhoods and individuals. This controversy has been extensively covered by major media outlets and other news organizations and has culminated in multiple lawsuits, including *Floyd v. City of New York*, a class action pending in the Southern District of New York that seeks to enjoin the program in its current form on, among other bases, the racial imbalances in its execution (Exhibit 3). The NYPD's most recent data demonstrate these racial disparities, showing that while the population of New York City is only 54 percent Black or Hispanic, over 87 percent of those stopped were Black or Hispanic. This racial imbalance in the implementation of the Stop, Question, and Frisk program extends beyond the individuals stopped to the neighborhoods targeted for enforcement. For example, each of the four most active precincts for Stop, Question, and Frisk activity has a population that is majority Black and Hispanic.

17. On December 28, 2011, at approximately 12:15pm, Omeil N. Morgan and co-worker Oridian Beadle, were lawful New York City residents who had finished moving job at 488 Greene Avenue by the corner of Nostrand Avenue, in Brooklyn, New York

18. Plaintiff and Oridian Beadle got in motor vehicle parked across from 488 Greene. Plaintiff (the driver) indicated to pull out of parking; however, with much traffic moving down Greene Avenue, Plaintiff waited for time to pull out of parking space. While waiting, a police van drove passed to stop behind vehicle at traffic light. When the light changed, the police van drove-off to stop in cross-walk at Nostrand Avenue.

19. Plaintiff alleges, shortly, thereafter defendant Sergeant Worobey approach truck as plaintiff is waiting to pull out of parking. Sergeant Worobey came to passenger side that Oridian Beadle opened door to hear what officer was questioning, while all of the other defendants officers came out of their mark patrol van. Sergeant Worobey asked if we had seen anyone running in the area as he stated there was a robbery, we answered no and further explained we had just finished a moving job across the street.

20. Plaintiff alleges, as other defendant officers surrounded motor vehicle, Sergeant Worobey stated he smelled marihuana and stated it's against penal code 221.05. Further, Sergeant Worobey then told Oridian Beadle to step out of the motor vehicle and led him to driver side window. Plaintiff, with truck still running, asked officers if they were following protocol, based on how aggressive officers' were conducting themselves. Then, POLICE OFFICER ONE, who plaintiff can not identify, asked plaintiff for driver license, which plaintiff asked why he was being stopped and furnished to officer without getting reason or cause of stop.

21. Plaintiff alleges, officer Kazlas, started to question plaintiff on having marihuana in company vehicle. Plaintiff declined to answer officer Kazlas line of questioning through repeatedly asking if they were following the law. As a result, officer Kazlas removed an iphone from his pocket while still questioning plaintiff. As a result of being interrogated and asking the Officer to stop, plaintiff asked if he could

take out his camera to photograph the incident, the officers didn't say anything. As a result of the incident, Mr. Morgan photographed the officers' actions while being questioned and recorded by officer Kazlas who while recording also passed iphone to OFFICER MATCHEL (Exhibits 4 – 14).

22. Plaintiff alleges, after being recorded while questioned and repeatedly asking officers to stop, Mr. Morgan called 911 at 12:27pm out of fear of the Officers' actions as he felt they were abusing their power. Due to the defendants' police officers refusal to aid him, plaintiff calling emergency was his only hope for help.

23. Plaintiff alleges, as a result of his call to 911, plaintiff could hear the operator over the radio of the officers on the scene. As a result, the Officers backed done with their aggressive measures.

24. Plaintiff alleges, in response, Officer Kazlas gave summons #433564403-6 for unlawful possession of marihuana (PL 221.05). Plaintiff protested the summons that was issued to him as he did not have any marihuana in his possession.

25. Plaintiff alleges, the defendants' officers never searched him or the truck that he was driving. Further more, Officer Kazlas claimed he found marihuana and conspired with Sergeant Worobey before issuing summons.

26. Plaintiff alleges, after receiving summons, plaintiff asked Sergeant Worobey if there is proof that he can have for the evidence that Sergeant Worobey said was going to be sent to the lab to verify it is marihuana (Exhibits 4 - 14). Plaintiff not satisfied with response from Sergeant Worobey in stating they were not going back to precinct after leaving scene. As a result, plaintiff drove at a distance behind defendants' police officers to the City of New York Police 79th Precinct, where he parked and went inside 79th Precinct to speak with Sergeant Worobey in seeing and photographing the evidence claimed to have been found in the truck by Officer Kazlas.

27. Plaintiff alleges, at no time during the events described above, plaintiff was not found using or in possession of marihuana, intoxicated, incapacitated, a threat to the safety of himself or others, or disorderly. He had not committed any criminal offenses.

28. Plaintiff alleges, the defendant police officers had no probable cause for the Stop and Questions of the plaintiff, as plaintiff protested being searched. Officer Kazlas issued the summons even though he had no basis for believing that plaintiff had done anything unlawful. The summons was issued maliciously and without probable cause.

29. Plaintiff alleges, at all times during the events described above, the defendant police officers were engaged in a joint venture. The individual officers assisted each other in performing the various actions described and lent their physical presence and support and the authority of their office to each other during the said events.

30. Plaintiff alleges, as result of the incident, he could hardly sleep for a number of days, and as a result of the incident, his heart races with anxiety and apprehension whenever he encounters police officers when he is working or not working.

31. Plaintiff alleges, as a result of incident, he filed complaint, with Civilian Complaint Board (Exhibit 1).

32. Plaintiff alleges, as a result of the incident, summons required him to appear in Criminal Court of the City of New York County of Kings. His summons was ultimately dismissed on March 23, 2012 (Exhibit 2), after his second court appearance.

33. Plaintiff alleges, on December 31, 2011 he filed complaint with Internal Affairs Bureau # 11-60430.

34. Plaintiff alleges, On March 9, 2012, he served a notice of claim (Exhibit 3), upon the Comptroller of the City of New York, pursuant to 50-e of the New York General Municipal Law.

35. Plaintiff alleges, upon information and belief, the violation of his rights resulted from the improper training of OFFICER JOSEPH KAZLAS; OFFICER CALEEF MCCLEAN; OFFICER MATCHEL, shield no. 16928; SERGEANT WOROBAY, NYPD 079th precinct; OFFICER RAHMAN, shield no. 28165; POLICE OFFICER ONE, NYPD 079TH precinct. Upon information and belief, it was the policy and/or custom of the City of New York to improperly investigate citizen complaints of police misconduct, and acts of misconduct were instead tolerated by the City of New York, including, but not limited to, plaintiff's incident.

JURISDICTION AND VENUE

36. This Court has subject-matter jurisdiction over Plaintiff's claims pursuant to 28 U.S.C. §§ 1331 and 1343(3)-(4);

37. This Court has supplemental jurisdiction over all state constitutional and state law claims pursuant to 28 U.S.C. § 1367 (a);

38. Venue is proper pursuant to 28 U.S.C. § 1391(b)(2) in that Plaintiff's claims arises in the Eastern District of New York.

CAUSES OF ACTIONS

COUNT I MONELL CLAIM IN VIOLATION OF 42 U.S.C. § 1983

39. Plaintiff re-alleges Paragraphs 1 through 38 and incorporates them by reference as Paragraphs 1 through 38 of Count I of this Complaint.

40. Plaintiff alleges that defendants' THE CITY OF NEW YORK; RAYMOND W. KELLY; OFFICER JOSEPH KAZLAS; OFFICER CALEEF MCCLEAN; OFFICER MATCHEL, shield no. 16928; SERGEANT WOROBAY, NYPD 079th precinct; OFFICER RAHMAN, shield no. 28165; POLICE OFFICER ONE, NYPD 079TH precinct, caused plaintiff injuries.

41. Plaintiff alleges that defendants' THE CITY OF NEW YORK; OFFICER JOSEPH KAZLAS; OFFICER CALEEF MCCLEAN; OFFICER MATCHEL, shield no. 16928; SERGEANT WOROBEY, NYPD 079th precinct; OFFICER RAHMAN, shield no. 28165; POLICE OFFICER ONE, NYPD 079TH precinct, actions were taken under color of law.

42. Plaintiff alleges that defendants' THE CITY OF NEW YORK; OFFICER JOSEPH KAZLAS; OFFICER CALEEF MCCLEAN; OFFICER MATCHEL, shield no. 16928; SERGEANT WOROBEY, NYPD 079th precinct; OFFICER RAHMAN, shield no. 28165; POLICE OFFICER ONE, NYPD 079TH precinct, deprived plaintiff of his constitutional and statutory rights.

43. Plaintiff alleges that defendants' THE CITY OF NEW YORK; OFFICER JOSEPH KAZLAS; RAYMOND W. KELLY; OFFICER CALEEF MCCLEAN; OFFICER MATCHEL, shield no. 16928; SERGEANT WOROBEY, NYPD 079th precinct; OFFICER RAHMAN, shield no. 28165; POLICE OFFICER ONE, NYPD 079TH precinct, actions are causally related to his injuries.

44. Plaintiff alleges that as a result of the defendants' THE CITY OF NEW YORK; RAYMOND W. KELLY; OFFICER JOSEPH KAZLAS; OFFICER CALEEF MCCLEAN; OFFICER MATCHEL, shield no. 16928; SERGEANT WOROBEY, NYPD 079th precinct; OFFICER RAHMAN, shield no. 28165; POLICE OFFICER ONE, NYPD 079TH precinct, actions caused his damages.

45. Plaintiff alleges that an official policy, Stop, Question, and Frisk, of the NYPD caused his constitutional and statutory injuries.

COUNT II
IMPROPER HIRING IN VIOLATION OF 42 U.S.C. § 1983

46. Plaintiff re-alleges Paragraphs 1 through 45 and incorporates them by reference as Paragraphs 1 through 45 of Count II of this Complaint.

47. Plaintiff alleges that defendant THE CITY OF NEW YORK deprived him of his constitutional rights by hiring defendants' OFFICER JOSEPH KAZLAS; OFFICER CALEEF MCCLEAN; OFFICER MATCHEL, shield no. 16928; SERGEANT WOROBEY, NYPD 079th precinct; OFFICER RAHMAN, shield no. 28165; POLICE OFFICER ONE, NYPD 079TH precinct.

48. Plaintiff alleges that defendant THE CITY OF NEW YORK decision to hire defendants' OFFICER JOSEPH KAZLAS; OFFICER CALEEF MCCLEAN; OFFICER MATCHEL, shield no. 16928; SERGEANT WOROBEY, NYPD 079th precinct; OFFICER RAHMAN, shield no. 28165; POLICE OFFICER ONE, NYPD 079TH precinct, reflects a deliberate indifference to the risk that a violation of a constitutional or statutory right would follow.

49. Plaintiff alleges that as a result of defendant THE CITY OF NEW YORK decision to hire defendants' OFFICER JOSEPH KAZLAS; OFFICER CALEEF MCCLEAN; OFFICER MATCHEL, shield no. 16928; SERGEANT WOROBEY, NYPD 079th precinct; OFFICER RAHMAN, shield no. 28165; POLICE OFFICER ONE, NYPD 079TH precinct, he sustained constitutional and statutory injuries.

COUNT III
FAILURE TO TRAIN IN VIOLATION OF 42 U.S.C. § 1983

50. Plaintiff re-alleges Paragraphs 1 through 49 and incorporates them by reference as Paragraphs 1 through 49 of Count III of this Complaint.

51. Plaintiff alleges that defendant THE CITY OF NEW YORK knows to a moral certainty that its employees will confront a given situation.

52. Plaintiff alleges that the situation either presents the employee with a difficult choice of the sort that training will make less difficult or that there is a history of employees mishandling the situation.

53. Plaintiff alleges that mishandling those situations will frequently cause the deprivation of a citizen's constitutional rights.

54. Plaintiff alleges that as a result of defendant THE CITY OF NEW YORK's failure to train its employees he sustained constitutional and statutory injuries.

**COUNT IV
FAILURE TO SUPERVISE IN VIOLATION OF 42 U.S.C. § 1983**

55. Plaintiff re-alleges Paragraphs 1 through 54 and incorporates them by reference as Paragraphs 1 through 54 of Count IV of this Complaint.

56. Plaintiff alleges that defendant THE CITY OF NEW YORK knows to a moral certainty that its employees will confront a given situation.

57. Plaintiff alleges that the situation either presents the employee with a difficult choice of the sort that supervision will make less difficult or that there is a history of employees mishandling the situation.

58. Plaintiff alleges that mishandling those situations will frequently cause the deprivation of a citizen's constitutional rights.

59. Plaintiff alleges that as a result of defendant THE CITY OF NEW YORK's failure to supervise its employees he sustained constitutional and statutory injuries.

**COUNT V
MALICIOUS PROSECUTION IN VIOLATION OF
THE FOURTH AMENDMENT OF THE UNITED STATES CONSTITUTION
AND 42 U.S.C. § 1983**

60. Plaintiff re-alleges Paragraphs 1 through 59 and incorporates them by reference as Paragraphs 1 through 59 of Count V of this Complaint.

61. Plaintiff alleges that as a direct results of acts, omissions, and policies of the Defendants, Mr. Morgan was deprived of his rights in the use of malicious prosecution under the Fourth Amendment of the United States Constitution and 42 U.S.C. § 1983.

REQUESTS FOR RELIEF

WHEREFORE the Plaintiff respectfully request that the Court:

62. Declare that Defendants' actions violated Mr. Morgan's rights under the Fourth Amendment of the United States Constitution;
63. Award compensatory damages for injuries sustained by Mr. Morgan;
64. Award punitive damages to Mr. Morgan from the officers' who effectuated, malicious prosecution through issuing spurious summons.
65. Issue an injunction requiring the Defendants to seal or expunge from their records, including but not limited to the NYPD's stop, question and frisk database, any information concerning Mr. Morgan relating to his December 2011 incident;
66. Grant any other relief the Court deems necessary and proper.

Dated: Brooklyn, New York
March 4, 2013



OMEIL N. MORGAN
By Pro Se THE PLAINTIFF.

